IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.869 OF 2006

Rafique A. Malik .. Petitioner.

V/s.

The Dy. Commissioner of Income-tax, Central Circle-3 & Othes .. Respondents.

Mr.A.K. Jasani for the petitioner.

Mr.S.R. Chauhan with Mr.Arun D. Nagarjun for the respondents.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2006.

P.C. :

Heard.

2. Rule. Returnable forthwith. By consent, rule is heard finally at this stage.

3. Mr.S.R. Chavan, the advocate for the revenue submits that the certificate granted by the Commissioner under Section 68(2) of the Voluntary Disclosure of Income Scheme, 1997 is holding the field and that the said certificate has not been cancelled or revoked nor can it be cancelled or revoked. He also admitted that so long as the certificate under Section 68(2) of the Scheme holds

the field, the amount of voluntarily disclosed income cannot be included in the total income of the petitioner - assessee for any assessment year under the Income Tax Act. If that be so, we fail to understand the justification of notice under Section 148 of the Income Tax Act, 1961.

4. As a matter of fact, the advocate for the revenue fairly conceded that the order passed by us on 14th march, 2006 in writ petition No.531 of 2006 (M/s.Uma Corporation V/s. Krishna Prabhakar) is applicable on all fours in the facts situation of the present case.

5. Consequently, we quash and set aside the notice dated 31st March, 2005 issued under Section 148 of the Income Tax Act, 1961 and further notice dated 1st March, 2006 issued under Section 143(2) of the Income Tax Act, 1961.

6. Rule is disposed of accordingly. No costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)